

**MEMORANDUM OF AGREEMENT
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION AND
THE INDIANA STATE HISTORIC PRESERVATION OFFICER
SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
PURSUANT TO 36 C.F.R. Part 800
REGARDING THE REPLACEMENT OF U.S.41 BRIDGE OVER PIGEON CREEK
IN EVANSVILLE, PIGEON AND CENTER TOWNSHIPS, VANDERBURGH COUNTY, INDIANA**

WHEREAS the Federal Highway Administration ("FHWA") proposes to remove the Parker through-truss steel bridge for the U.S.41 Pavement Rehabilitation/Added Travel Lanes project in Evansville, Pigeon and Center Townships, Vanderburgh County, Indiana; and

WHEREAS the FHWA, in consultation with the Indiana State Historic Preservation Officer ("Indiana SHPO"), has defined this Pavement Rehabilitation/Added Travel Lanes project's area of potential effects, as the term defined in 36 C.F.R. Section 800.16(d), to be the area from S.R. 66 (Division Street) North Junction with U.S.41 to 3.2 miles north of S.R.57 with a western boundary that extends to the Conrail tracks that run parallel to U.S.41 and an eastern boundary that extends at varying widths to include adjacent multiple building fronts of various businesses, the Evansville Regional Airport, and private residences.

WHEREAS the FHWA, in consultation with the Indiana SHPO, has found that the Parker through-truss steel bridge (Site #163-195-51435); Chicago & Eastern Illinois Repair Shop/Truss Railroad Bridge (Site #163-195-51648); and Republic Aviation Corporation U.S.41 (Site #163-195-51427) are within the area of potential effects; and

WHEREAS the FHWA, in consultation with the Indiana SHPO, has determined, pursuant to 36 C.F.R. Section 800.4(c), that the Parker through-truss steel bridge (Site #163-195-51435); Chicago & Eastern Illinois Repair Shop/Truss Railroad Bridge (Site #163-195-51648); and Republic Aviation Corporation U.S.41 (Site #163-195-51427) are eligible for inclusion in the National Register of Historic Places;

WHEREAS the FHWA, in consultation with the Indiana SHPO, has determined pursuant to 36 C.F.R. Section 800.5(a) that the Pavement Rehabilitation/Added Travel Lanes project will have an adverse effect on the Parker through-truss steel bridge; and

WHEREAS the FHWA has consulted with the Indiana SHPO in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470f) and its implementing regulations (36 C.F.R. Part 800) to resolve the adverse effect on the Parker through-truss steel bridge; and

WHEREAS the FHWA, in consultation with the Indiana SHPO, has invited the Indiana Department of Transportation to participate in the consultation and to become a signatory to this memorandum of agreement; and

NOW, THEREFORE, the FHWA and the Indiana SHPO agree that, upon the submission of a copy of this executed memorandum of agreement, as well as the documentation specified in 36 C.F.R. Sections 800.11(e) and (f) to the Advisory Council on Historic Preservation ("Council" pursuant to 36 C.F.R. Section 800.6(b)(1)(iv)) and upon the FHWA's approval of the Pavement Rehabilitation/Added Travel Lanes project, the FHWA shall ensure that the following stipulations are implemented in order to take into account the effect of the Pavement Rehabilitation/Added Travel Lanes project on historic properties.

Stipulations

FHWA shall ensure the following stipulations are implemented.

I MARKETING PLAN

- A. INDOT shall publish a public notice that shall offer the bridge for relocation and reassemble. The offer will be made to the public through a notice in a widely circulated Vanderburgh County newspaper, and an e-mail solicitation to potential parties.
- The notice shall include the following types of information:
- location of the bridge, by road, section, range, township, and county
 - request for any state or local government agency, or responsible private entity who might be interested in moving and rehabilitating the historic bridge for preservation purposes
 - the new owner must agree to maintain the bridge and features that gives it its historic significance
 - the recipient may be eligible to apply for reimbursement for up to 80% of the cost incurred in such activities as relocation, site preparation, reassemble, rehabilitation work, preparation of engineering plans, and any regulatory permits
 - the new owner must assume all future legal and financial responsibility for the bridge
 - whom to contact for additional information with address and telephone number
 - deadline for submitting a written proposal and the address to send the proposal
- B. INDOT shall review all offers for the bridge in consultation with the SHPO prior to acceptance. The FHWA through the INDOT shall ensure that the bridge is moved in accordance with the approaches recommended in Moving Historic Buildings (John Obed Curtis. AASLH, published by the Preservation Assistance Division, National Park Service, U.S. Department of the Interior in 1979).
- C. If no offers are made INDOT shall dismantle the bridge and relocate to a temporary holding facility for a period of ten years.
- D. INDOT shall ensure the Indiana SHPO is afforded 30 days to review and comment on the proposal to dismantle and relocate the bridge and on the new site for the bridge.
- E. INDOT shall afford the SHPO the opportunity to reevaluate the property on its new site.
- F. INDOT shall photographically document the Parker through-truss steel bridge in accordance to "State of Indiana Minimum Architectural Documentation Standards" as provided by the SHPO office prior to dismantling.

II DISPUTE RESOLUTION

Disagreement and misunderstanding about how this memorandum of agreement is or is not being implemented shall be resolved in the following manner:

- A. If the Indiana SHPO or any invited signatory to this memorandum of agreement should object in writing to the FHWA regarding any action carried out or proposed with respect to the Pavement Rehabilitation/Added Travel Lanes project or implementation of this memorandum of agreement, then the FHWA shall consult with the objecting party to resolve this objection. If after such consultation the FHWA determines that the objection cannot be resolved through consultation, then the FHWA shall forward all documentation relevant to the objection to the Council, including the FHWA's proposed response to the objection. Within 45 days after receipt of all pertinent documentation, the Council shall exercise one of the following options:
 - i. Provide the FHWA with a staff-level recommendation, which the FHWA shall take into account in reaching a final decision regarding its response to the objection; or
 - ii. Notify the FHWA that the objection will be referred for formal comment pursuant to 36 C.F.R. Section 800.7(c), and proceed to refer the objection and comment. The FHWA shall take into account the Council's comments in reaching a final decision regarding its response to the objection.
- B. The FHWA shall take into account any Council comment or recommendations provided in accordance with this stipulation with reference only to the subject of the objection. The FHWA's responsibility to carry out all actions under the memorandum of agreement that are not the subjects of the objection shall remain unchanged.

III POST REVIEW DISCOVERY

In the event that one or more historic properties other than the -- Parker through-truss steel bridge -- are discovered or that unanticipated effects on historic properties are found during the implementation of this memorandum of agreement, the FHWA shall follow the procedure specified in 36 C.F.R. Section 800.13.

IV AMENDMENT

Any signatory to this memorandum of agreement may request that it be amended, whereupon the parties shall consult to consider the proposed amendment. Any such amendment shall be governed by 36 C.F.R. Section 800.6(c)(7).

V TERMINATION

- c. If the terms of this memorandum of agreement have not been implemented by December 31, 2015, then this memorandum of agreement shall be considered null and void. In such an event, the FHWA shall so notify the parties to this memorandum of agreement and, if it chooses to continue with the Pavement Rehabilitation/Added Travel Lanes project, then it shall reinstate review of the Pavement Rehabilitation/Added Travel Lanes project in accordance with 36 C.F.R. Sections 800.3 through 800.7.
- d. Any signatory to the memorandum of agreement may terminate it by providing thirty (30) days notice to the other parties, provided that the parties shall consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the FHWA shall comply with 36 C.F.R. Sections

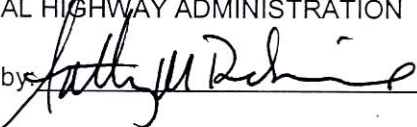
800.3 through 800.7 with regard to the review of the Rehabilitation/Added Travel Lanes project.

- e. In the event that the FHWA does not carry out the terms of this memorandum of agreement, the FHWA shall comply with 36 C.F.R. Sections 800.3 through 800.7 with regard to the review of the Rehabilitation/Added Travel Lanes project.

The execution of this memorandum of agreement by the FHWA, INDOT, and the Indiana SHPO, the submission of it to the Council with the appropriate documentation specified in 36 C.F.R. Sections 800.11(e) and (f), and the implementation of its terms evidence that the FHWA has afforded the Council an opportunity to comment on the Rehabilitation/Added Travel Lanes project and its effect on historic properties and that the FHWA has taken into account the effects of the Rehabilitation/Added Travel Lanes project on historic properties.

SIGNATORIES (required):

FEDERAL HIGHWAY ADMINISTRATION

Signed by:  Date: 4/14/05

for Name and Title: Robert F. Tally, Jr., P.E., Division Administrator

INDIANA STATE HISTORIC PRESERVATION OFFICER

Signed by:  Date: 5.11.05

Name and Title: Jon C. Smith, Deputy State Historic Preservation Officer

INVITED SIGNATORIES

INDIANA DEPARTMENT OF TRANSPORTATION

Signed by:  Date: 3/22/05

Name and Title: Thomas O. Sharp, Commissioner